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May 3, 2006

IN REPLY REFER TO:
3079-010

BY FIRST-CLASS MAIL

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Arlington, VA 22313-1450

***Re: Brief on Appeal
Patent Application No. 10/077,740 for
POKER GAME WITH SECONDARY BET OPPORTUNITY***

Dear Sirs:

Enclosed for filing please find a Brief on Appeal of the Final Office Action of Primary Examiner Julie K. Brockett mailed November 25, 2005 with respect to the above-referenced patent application. The enclosed Brief comprises the following:

1. Brief on Appeal;
2. Filing fee;
3. Certificate of Mailing by First-Class Mail; and
4. Postcard.

If any additional charges or fees must be paid in connection with the filing of the above Amendment, they may be paid out of our deposit account No. 50-1325. A duplicate copy of this transmittal letter is enclosed.

Very truly yours,

PATZIK, FRANK & SAMOTNY LTD.

A handwritten signature in black ink, appearing to read "Scott W. Smilie".

Scott W. Smilie

Enclosures



IN THE
UNITED STATES
PATENT AND TRADEMARK OFFICE

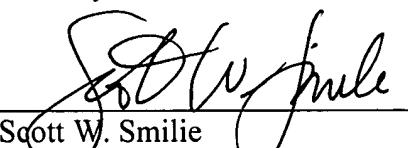
IN RE APPLICATION OF: Jarvis et al. BRIEF ON
CASE: 3079-010 APPEAL AND
SER. NO.: 10/077,740 FILING FEE
FILING DATE: February 14, 2002
FOR: POKER GAME WITH SECONDARY
BET OPPORTUNITY

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

Date of Deposit: May 3, 2006

I hereby certify that this correspondence is being deposited with the United States Postal Service, "regular Mail Post Office to Addressee" service under 37 C.F.R. 1.10 in an envelope addressed to: Mail Stop Appeal Brief - Patents, Commissioner for Patents, P. O. Box 1450, Arlington, VA 22313-2450, on May 3, 2006.

Dated: May 3, 2006



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Attorney Docket No.: 3079-010

UTILITY PATENT APPLICATION



IN THE
UNITED STATES
PATENT AND TRADEMARK OFFICE

~~TRADE MARK~~ U.S. Patent Application

Applicant: Jarvis et al.

Serial No.: 10/077,740

Filed: February 14, 2002

For: POKER GAME WITH
SECONDARY BET
OPPORTUNITY

Examiner: Broketti, Julie K.

Unit: AU3713

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Scott W. Smilie

BRIEF ON APPEAL

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

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I. INTRODUCTION/REAL PARTY IN INTEREST.

This appeal is made from the Final Rejection of Claims 1, 3, 5, 6, 8, 10, 11, 13, 14, 17 and 18 U.S.C. §103 as made in the Final Rejection dated October 25. 2005. The inventors of this patent application are Eugene Jarvis of Park Ridge, Illinois and Andrew Eloff of Evanston, Illinois. The owner of the patent is Raw Thrills, Inc. of Niles, Illinois.

II. RELATED APPEALS AND INTERFERENCES.

No other appeals or interferences known to Appellant or Appellant's attorney will directly affect or be affected by or have a bearing on the Board's decision in this pending appeal.

III. STATUS OF CLAIMS.

Claims 1, 3, 5, 6, 8, 10, 11, 13, 14, 17 and 18, as amended, are pending in this application. This appeal is from the Final Rejection of amended Claims 1, 3, 5, 6, 8, 10, 11, 13, 14, 17 and 18 under 35 U.S.C. §103. The appealed claims are set forth in the attached Appendix.

IV. STATUS OF AMENDMENTS.

There are no pending amendments that have not been considered by the Examiner.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER.

The present invention relates to a poker game and method for playing the same that allows a player to place an initial wager that the final hand will be a winning hand and to place a second wager, after the initial cards are dealt, that the final hand will contain a specific card combination that is of a higher ranking than the initially dealt cards. (p. 16, lines 10-19). In particular, the player places an initial wager that the final hand will contain any one of the preselected winning card combinations. (p. 20, lines 16-19). Once the bet is placed, an initial hand of cards is dealt to the player, (p. 21, lines 1-2), and it is determined whether the cards match one of a predetermined combination of cards. After the cards are dealt, the player may then elect to place a second wager, which is independent from the initial wager, that the final hand will contain a particular combination of cards that is of a higher ranking than the initially dealt cards. (p. 26, lines 2-3). For example, if the initial hand comprises one pair, the player may make a proposition bet that the final hand composition will be of a better ranking than one pair (e.g., three of a kind or two pair). (p. 8, lines 18-22; p. 9, lines 18-20). If the final hand contains the particular combination of cards that the player bet on, then the player wins both the initial and second wager. (p. 8, line 22 – p. 9, 2; p. 27, lines 9-23). However, if the final hand does not match the particular combination of cards, but does match one of the preselected winning card combinations, then the player will win the initial wager, but loses the second wager. (p. 8, line 22 – p. 9, 2; p. 27, lines 9-23).

Referring to Claims 13 and 14, the poker game comprises a computing device having a screen display, a microprocessor, a selection device, a power supply, a hand of cards displayed on the screen display. (p. 15, line 15 to p. 16, line 9). The poker game also comprises card determining means (p. 21, lines 3-10), means for determining whether the initial hand of cards matches one of the plurality of preselected combination of cards (p. 15,

lines 16-22) and card combination determining means for analyzing the hand to determine possible final hand to provide the player with at least one proposition bet. (p. 22, line 3 to p. 25, line 15).

VI. ISSUES.

Whether the claimed subject matter of the appealed claims, when taken as a whole, would be unpatentable to a person having ordinary skill in the art under 35 U.S.C. 103 over Carrico et al. in view of Yoseloff.

VII. GROUPING OF CLAIMS

Claims 1, 3, 5, 6, 8, 10, 11, 17 and 18 are grouped together and stand or fall together.

Claims 13 and 14 are grouped together and stand or fall together.

VIII. ARGUMENT.

A. Introduction.

Claims 1, 3, 5, 6, 8, 10, 11, 13, 14, 17 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Carrico et al. U.S. Patent No. 6,416,407 in view of Yoseloff U.S. Patent No. 6,227,969.

The Examiner stated that Carrico et al. teaches each of the limitations of the claims except that it does not teach, among other things: second betting opportunities as proposition bets. In view of the lack of the disclosure of this element, the Examiner stated that it would have been obvious to use the method of placing proposition bets in the game of poker after the initial cards are dealt as shown in Yoseloff.

1. Obviousness

In order to establish a *prima facie* case of obviousness, the examiner must show that there is a “[1] some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. . . . [2] a reasonable expectation of success.” and [3] a prior art reference or references that teach or suggest all of the claimed limitations. M.P.E.P. §706.02(j).

In determining whether a claim is obvious over the prior art, the patent statute (35 U.S.C. §103), the Supreme Court and the Circuit Court of Appeals for the Federal Circuit all require consideration of the subject matter of the structure of the “invention as a whole” and the problem it solves as viewed in the light of the prior art teachings at the time of the invention. *Bonito Boats, Inc. v. Thunder Craft Boats, Inc.*, 489 U.S. 141, 150, 9 U.S.P.Q.2d 1847, 1851-52 (1989); *In re Ochiai*, 71 F.3d 1565, 1569, 37 U.S.P.Q.2d 1127, 1131 (Fed. Cir.

1995). When determining whether the claimed subject matter is obvious, it is well established law that

[t]o support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teaching of the reference.

M.P.E.P. §706.02(j) (*quoting Ex parte Clapp*, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. & Int.1985)).

The obviousness analysis focuses on the differences or changes between the claimed subject matter of the application and the subject matter contained within the prior art references at the time of the invention. Regardless of the simplicity of the changes, the claimed subject matter will be patentable if the prior art fails to teach, suggest or motivate one of ordinary skill in the art to modify what was known in the prior art, including any personal knowledge, to obtain the claimed subject matter. In particular, the Federal Circuit has stressed that

[i]n a proper obviousness determination, ‘[w]hether the changes from the prior art are ‘minor,’ . . . the changes must be evaluated in terms of the whole invention, including whether the prior art provides any teaching or suggestion to one of ordinary skill in the art to make the changes that would produce the patentee’s device.’ This includes what could be characterized as simple changes . . .

In re Chu, 36 U.S.P.Q.2d 1089, 1094 (Fed. Cir. 1995) (citations omitted).

Especially in the case where the claimed subject matter relates to simple changes or simple devices, it is of supreme importance to avoid the use of hindsight. The courts, including the United States Court of Appeals for the Federal Circuit, have steadfastly condemned hindsight application of prior art to find an invention *prima facie* obvious:

To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to

fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.

Al-Site Corp. v. VSI Int'l, Inc., 50 U.S.P.Q.2d 1161, 1171 (Fed. Cir. 1999) (*citing W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 U.S.P.Q. 303, 312-13 (Fed. Cir. 1983)).

The standard of obviousness is not whether in hindsight, it seems elementary that someone would have combined these certain elements in the prior art to form the invention in question. *See e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1551, [220 USPQ 303, 313] (Fed. Cir. 1983). Hindsight is almost always perfect. It is insufficient to prove that at the time of the claimed invention, the separate elements of the device were present in the known art. Rather, there must have been some explicit teaching or suggestion in the art to motivate one of even ordinary skill to combine such elements so as to create the same invention.

Winner Int'l Royalty Corp. v. Wang, 48 U.S.P.Q.2d 1139, 1144 (D.C. D.C. 1998)

In view of this important principal, a “particular finding must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed”. *In re Werner Kotzab*, Case. No. 99-1231 (Fed. Cir. June 30, 2000). “Broad conclusory statements standing alone are not ‘evidence’”. *Id. (citing In re Dembicza*k, 175 F.3d 994, 999, 50 U.S.P.Q. 1614, 1617 (Fed. Cir. 1999)). In determining *prima facie* obviousness in the Final Rejection of Claims 1, 3, 5, 6, 8, 10, 11, 13, 14, 17 & 18, it is submitted that the Examiner has violated the teaching or suggestion test and resorted to hindsight. As explained in more detail below, the obviousness rejection should therefore be reversed and the claims should be allowed to issue.

B. The Prior Art

The Carrico et al. U.S. Patent No. 6,416,407 (the “Carrico ‘407 patent”) discloses a multi-draw poker game wherein a player places an original wager and is dealt five cards. The player may then elect to replace certain cards in the hand to create a second hand. If no cards

are replaced, the game ends. After the cards are replaced, the player may then elect to place a bet that the cards of a third hand will match a predetermined winning hand that is different than the second hand (if it was a winning hand).

If the cards represent a winning hand, the player may elect to halt play and collect his winnings, or elect to draw additional cards. After the cards are drawn, the player may again elect to either halt play or draw additional cards. If the player elects to draw additional cards, then the player must pay an amount equal to the player's original wager plus an amount equal to any potential winnings the player would have won after the first cards were drawn. In other words, the player must give up a potentially winning hand and potential payoff from an initial winning hand to make the additional wager. [See Col. 6, lines 3-6 ("The player is induced to give up the winning hand and potential payout from that winning hand . . . to make the additional wager . . .")]. The player wins if the final hand matches any one of the predetermined winning poker hands (other than the initial winning hand).

Yoseloff U.S. Patent No. 6,227,969 (the "Yoseloff '969 patent") is directed to method of playing cards wherein a player may make one or more side bets that the outcome of cards or symbols will match a portion or all of a set of randomly generated symbols or match cards. In other words, in a poker game, the side bet wager in Yoseloff is separate and distinct from determining whether the hand matches a predetermined selection of cards.

C. Argument – obviousness with respect to claims 1, 3, 5, 6, 8, 10, 11, 17 and 18.

It is submitted that the Examiner's rejection over Carrico in view of Yoseloff does not constitute a *prima facie* case of obviousness as required under 35 U.S.C. §103 in rejecting claims. In order to establish a *prima facie* case of obviousness, the Examiner must establish that a prior art reference or references teach or suggest all of the claimed limitations, there is some suggestion or motivation to modify the prior art to obtain the claimed invention and

there is a reasonable expectation of success. M.P.E.P. §706.02(j). As indicated above, and described in more detail below, there is absolutely no teaching, motivation or suggestion in Carrico, or the other prior art or record, to use a proposition bet after the initial card are dealt.

I. It Would Not Be Obvious To One Of Ordinary Skill in the Art to Combine a Proposition Bet After the Initial Cards are Dealt to the Teaching of Carrico.

Claims 1, 6 and 11, and claims dependent therefrom, comprise among other things, the step of offering a proposition bet that the final hand composition will match a particular one of a plurality of preselected combinations of cards after the initial cards are dealt, wherein the particular one of the preselected combination of cards is ranked higher than the ranking of the initially dealt cards. According to the Examiner, “Yoseloff teaches of [sic] placing proposition bets in the game of poker after the initial hand of cards are [sic, is] dealt.” It is respectively submitted that in addition to not showing or teaching a separate secondary bet, the prior art teaches away from the use of a separate secondary bet.

A. Carrico does not teach or suggest the use of a separate secondary bet as a proposition bet.

As acknowledged by the Examiner, Carrico does not teach the use of a separate secondary bet as a proposition bet. In order to get around the lack of teaching, the Examiner stated that Yoseloff teaches placing proposition bets after the initial hands are dealt. Yoseloff teaches placing side bets that a series of symbols they receive will match a series of randomly generated symbols. Accordingly, the players must simply base their bets on a guess, as they have no actual idea what symbols may be in the series of randomly generated symbols.

Part of the reason for the absence of this teaching in the prior art is that it is counterintuitive to allow bets to be placed on the specific outcome of the hand after cards have been dealt as the player would then have a better idea of the outcome of the hand, and thus a better chance of winning the particular bet. Furthermore, it would be counterintuitive

to allow players to place a proposition bet on the final hand composition wherein the player will not lose the initial bet.

B. The cited prior art teaches away from offering a separate secondary bet.

In addition to not teaching or suggesting the use of a separate secondary bet, Carrico teaches *against* a separate secondary bet. In particular, Carrico teaches against the use of separate proposition bets as claimed as it requires the player to *give up any potential winnings of the second hand* if the player elects to draw any additional cards. In the present invention, the placing of a proposition bet does not affect the outcome of the initial bet. On the contrary, in the present invention, the proposition bet is an additional opportunity for a winning bet.

Similarly, Yoseloff states that the side bet wager is preferably done in five card draw after the player's hand has been fixed, otherwise it would "alter the natural play of the underlying game significantly." [Col. 11, lines 15-18 (emphasis added)]. Accordingly, Yoseloff acknowledges that placing of a proposition bet during the play of the game (i.e., after the initial hand is dealt) should be avoided as it alters the *natural play* of the game. The side bet in Yoseloff is also unrelated to the ranking of the combination of cards, as claimed.

As references must be considered as a whole, including those parts that teach away from the claimed invention, it is submitted that the claimed invention is not obvious over the cited references. Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 796 F.2d 443, 448-49, 240 USPQ 416 (Fed. Cir. 1986). Accordingly, it is submitted that one of ordinary skill in the art, when confronted with the teaching of Carrico would likely be discouraged from using a separate proposition bet as claimed.

C. There is No Motivation to Combine the Cite References.

A review of the patent application and the prior art indicates that it appears to be a situation where the relative simplicity of Applicant's invention may lure one into an

inappropriate assertion of obviousness. While Applicant readily admits that the general concept of proposition bets was known, Applicant submits that reliance on Yoseloff to modify Carrico improperly involves use of Applicant's specification as a blueprint to combine the references. *See Ex parte Brack*, 134 USPQ 445 (Pat. Off. Bd. App. 1961). In cases of less technological inventions, it is especially important to consider all of the references in their entireties and all other factors, as "the danger increases that 'the very ease with which the invention can be understood may prompt one to "fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.''"' Ruiz v. A. B. Chance Co., 234 F.3d 654, 664, 57 USPQ.2d 1161 (Fed. Cir. 2000) (internal citations omitted).

It is respectfully submitted that there is no teaching, suggestion or incentive to combine Carrico with Yoseloff. When determining whether a claim is obvious in view of the prior art, "it is insufficient if prior art shows similar components unless it also contains some teaching, suggestion or incentive for arriving at the claimed structure." C.R. Bard, Inc. v. M3 Sys., Inc., 157 F.3d 1340, 1351 (Fed. Cir. 1998) citing Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 935, 15 USPQ.2d 1321, 323 (Fed. Cir. 1990). Rather, "the prior art must suggest to one of ordinary skill in the art the desirability of the claimed invention." Id. at 1352, citing Fromsom v. Advance Offset Plate, Inc., 755 F.2d 1549, 1556, 225 USPQ 26, 31 (Fed. Cir. 1985).

In order to get around the lack of teaching in the cited references, the Examiner has stated that it would have been obvious to one of ordinary skill in the art to allow a proposition bet after the initially dealt cards and before the final hand as it allows a player to make an educated wager and that it is "[c]ommon knowledge in the art . . . that the player wants every advantage in the game . . ." However, Applicant respectfully submits that while it may be

common knowledge that players want to get every advantage, those in the industry understand that this goes against the principal that the games are designed to give the ‘house’ the advantage. Otherwise, the house will not generate sufficient income for the game to succeed. In other words, the industry is not inclined as the Examiner has suggested, to make games that give players the advantage. Additionally, it is submitted that the Examiner’s reasoning that the claimed invention would be obvious because a player would be more inclined to play the game is exactly the type of hindsight reasoning that the Federal Circuit has ruled should be avoided as it would use the Applicant’s own teaching of its invention to overcome the lack of teaching in the prior art and prohibit the furtherance of the useful arts. *See, e.g., Al-Site Corp. v. VSI Int’l, Inc.*, 50 U.S.P.Q.2d 1161, 1171 (Fed. Cir. 1999) (*citing W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 U.S.P.Q. 303, 312-13 (Fed.Cir.1983)) (“To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.”); *Winner Int’l Royalty Corp. v. Wang*, F.Supp.2d 18,24, 48 U.S.P.Q.2d 1139, 1144 (D.D.C. 1998) (“The standard of obviousness is not whether in hindsight, it seems elementary that someone would have combined these certain elements in the prior art to form the invention in question.”)

While the Examiner has indicated that hindsight reasoning is proper in this case, as the prior art does not teach or suggest the claimed limitations, and in fact, teaches against the limitations, it is respectfully submitted that the obviousness rejection is improper as it is based upon Applicant’s own teaching. For all of the reasons set forth above, it is respectfully submitted that the obviousness rejection should be withdrawn and the claims be allowed to issue.

As there is no *explicit* teaching or suggestion of offering separate proposition bets that the final composition of cards will match one or a preselected combination of cards that is of a higher ranking *after* the cards are dealt without the need to forfeit any winnings, and there is no motivation or suggestion in the prior art to combine the references to place a proposition bet after the cards are dealt that the final composition of cards will match a particular one of a plurality of preselected combinations of cards and it will be a higher ranking hand than after the initial cards were dealt and before the proposition bet was made—and the prior art actually teaches against such a combination—it is respectfully submitted that the remaining claims are patentable over the prior art of record. See Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 796 F.2d 443, 448-49, 240 USPQ 416 (Fed. Cir. 1986). Accordingly, it is submitted that the Examiner has not set forth a *prima facie* case of obviousness. Appellant thereby respectfully submits that the Examiner's rejection of Claims 1, 3, 5, 6, 8, 10, 11, 17 and 18 is in error; that Claims 1, 3, 5, 6, 8, 10, 11, 17 and 18 are patentable over the prior art and that the Examiner's obviousness rejection of these claims be reversed.

D. Argument – obviousness with respect to claims 13 and 14.

For the reasons set forth above, Applicant repeats the arguments that the cited prior art references do not teach and, in fact teach away from, a secondary bet as a proposition bet as claimed. Accordingly, it is submitted that the Examiner has not set forth a *prima facie* case of obviousness. Appellant thereby respectfully submits that the Examiner's rejection of Claims 13 and 14 is in error; that Claims 13 and 14 are patentable over the prior art and that the Examiner's obviousness rejection of these claims be reversed.

IX. CONCLUSION

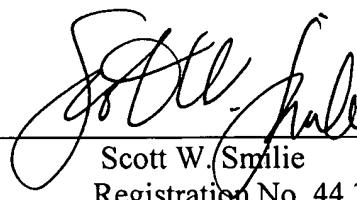
For the above reasons, Appellant respectfully submits that the Examiner erred in rejecting Claims 1, 3, 5, 6, 8, 10, 11, 13, 14, 17 and 18 under 35 U.S.C. §103 as *prima facie*

obvious by using improper hindsight. Accordingly, Appellant respectfully submits that the Examiner's rejection of Claims 1, 3, 5, 6, 8, 10, 11, 13, 14, 17 and 18 is in error; that the Examiner's rejection of these claims be reversed; and that their allowance should be accorded.

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Respectfully submitted,

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X. APPENDIX.

The Claims appealed from are as follows:

1. A method of playing a draw poker game including initially dealt cards, an opportunity for a player to hold at least one of said initially dealt cards and a final hand composition, said method comprising:

placing a first wager that a final hand composition will match one of a plurality of preselected combination of cards that are ranked in a particular order;

dealing a hand of initially dealt cards;

determining whether said initially dealt cards match one of said plurality of preselected combination of cards and determining a ranking of said initially dealt cards;

selecting none, one, or more held cards from said hand of dealt cards;

offering at least one proposition bet that the final hand composition will match a particular one of said plurality of preselected combination of cards after said initially dealt cards are dealt and prior to replacing each card not held, unless all initially dealt cards are held, wherein said particular one of said plurality of preselected combination of cards is ranked higher than the ranking of said initially dealt cards;

accepting said at least one proposition bet as a second wager if said proposition bet is offered;

dealing one additional card to replace each card not held to provide a final hand composition;

determining if said final hand composition matches said at least one proposition bet, if said at least one proposition bet is offered and accepted; and

determining if said final hand matches one of said plurality of preselected combination of cards as to the first wager.

3. The method of Claim 1 wherein the poker game is 5-card draw poker.
5. The method of Claim 3 wherein the held cards are automatically held upon acceptance of the second wager.
6. A method of playing a draw poker game including initially dealt cards, an opportunity for a player to hold at least one of said initially dealt cards and a final hand composition, said method comprising:
 - placing a first wager that a final hand composition will match one of a plurality of preselected combination of cards that are ranked in a particular order;
 - dealing a hand of initially dealt cards;
 - determining whether said initially dealt cards match one of said plurality of preselected combination of cards and determining a ranking of said initially dealt cards;
 - offering at least one proposition bet, after said initially dealt cards are dealt, that said final hand composition will match a particular one of said plurality of preselected combination of cards that is ranked higher than the ranking of said initially dealt cards, unless it is not possible to improve the poker hand ranking of the initially dealt cards;
 - selecting none, one, or more held cards from said hand of dealt cards;
 - accepting said at least one proposition bet as a second wager if said proposition bet is offered prior to replacing each card not held;
 - dealing one additional card to replace each card not held, to provide a final hand composition;

determining if said final hand composition matches said at least one proposition bet, if said at least one proposition bet is offered and accepted; and

determining if said final composition hand matches one of said plurality of preselected combination of cards as to the first wager.

8. The method of Claim 6 where the poker game is 5-card draw poker.

10. The method of Claim 8 wherein the held cards are automatically held upon acceptance of the second wager.

11. A method for playing a poker game including an initially dealt hand of cards, a final hand composition and rankings of possible poker hands, said method comprising:

placing a first wager that a final hand composition will match one of a plurality of preselected combination of cards that are ranked in a particular order;

dealing one or more initially dealt cards;

analyzing said dealt cards and undealt cards to determine possible final hand compositions and to determine whether said initially dealt cards match one of said plurality of preselected combination of cards and a ranking of said initially dealt cards;

providing at least one proposition bet, after said initially dealt cards are dealt, that said final hand composition will match a particular one of said plurality of preselected combination of cards that is ranked higher than the ranking of said initially dealt cards, unless it is not possible to improve the ranking of the initially dealt cards;

accepting said at least one proposition bet and making a second wager;

dealing the necessary cards to complete the hand providing said final hand composition;

determining if said final hand composition matches said at least one proposition bet; and
determining if said final hand matches one of a plurality of preselected combination of
cards with respect to said first wager.

13. A poker game played by a player including an initial hand of cards and a final hand of
cards that is created by replacing selected cards from the initial hand of cards, wherein wagers
may be placed that said final hand of cards will match one of a plurality of preselected
combination of cards that are ranked in a particular order, said poker game comprising:

 a computing device for implementing said game, said computing device having a
 screen display;

 a microprocessor in communication with said screen display;

 a selection device in communication with said microprocessor for providing means by
 which the player interacts with said computing device;

 a power supply in electrical communication with said screen display, said
 microprocessor and said selection device for providing power thereto;

 a hand of cards displayed on said screen display;

 card determining means in communication with said computing device for randomly
 determining in succession the composition of said initial hand of cards and for randomly
 determining the composition of said final hand of cards;

 means for determining whether said initial hand of cards matches one of said plurality
 of preselected combination of cards and a ranking thereof, and

 card combination determining means for analyzing said hand of cards to determine
 possible final hands so as to provide the player with at least one proposition bet that said final
 hand of cards will match one of said plurality of preselected combination of cards that is

ranked higher than the ranking of said initial hand of cards, wherein said proposition bet is selected after said initial hand of cards is displayed and prior to replacing the selected cards from the initial hand of cards.

14. A poker game played by a player including an initial hand of cards and a final hand of cards that is created by replacing selected cards from the initial hand of cards, wherein wagers may be placed that said final hand of cards will match one of a plurality of preselected combination of cards that are ranked in a particular order, said poker game said game comprising:

 a computing device for implementing said game, said computing device having a screen display;

 a microprocessor in communication with said screen display;

 a selection device in communication with said microprocessor for providing means by which the player interacts with said computing device;

 a power supply in electrical communication with said screen display, said microprocessor and said selection device for providing power thereto;

 an initial hand of cards displayed on said screen display;

 card determining means in communication with said computing device for randomly determining in succession the composition of said initial hand of cards and for randomly determining the composition of said final hand of cards;

 means for determining whether said initial hand of cards matches one of said plurality of preselected combination of cards and a ranking thereof, and

 card combination determining means for analyzing said initial hand of cards to determine possible final hands to provide the player with a plurality of proposition bets that

said final hand of cards will match one of said plurality of preselected combination of cards that is ranked higher than said ranking of said initial hand of cards, wherein one or more of said plurality of proposition bets is selected after said initial hand of cards is displayed and prior to replacing the selected cards from the initial hand of cards, and,

 said card determining means determining the composition of said final hand of cards and dealing the cards needed to complete the hand, so as to provide a payout to the player based on the composition of said final hand of cards.

17. The method of Claim 1 wherein said plurality of preselected combination of cards comprises: Royal Flush, Straight Flush, Straight, Flush, Full House, Three of a Kind, Two Pair and One Pair.

18. The method of Claim 1 wherein said machine automatically determines the player cards to hold when the player places the wager.

EVIDENCE APPENDIX

None

RELATED APPEALS AND INTERFERENCES APPENDIX

None